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March 4, 2011

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CLIENT/MATTER NUMBER
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VIA FACSIMILE

Mr. Jeff S. Jordan, Esq.
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NE
Washington, DC 20463

Re: MUR 6450 – Response and Motion to Dismiss Complaint

Dear Mr. Jordan:

The undersigned serves as counsel to Friends of Frank Guinta, the principal authorized committee of Frank Guinta, Republican Member of the U.S. House of Representatives from the 1st District of New Hampshire (“the Committee”). The Committee is the Respondent in the above-referenced Matter Under Review 6450.

Respondent hereby moves to dismiss the Complaint for the reason that it lacks any basis in law or fact, and there is no reason to believe that Respondent violated the Federal Election Campaign Act of 1971, as amended (“the Act”). The Complaint was filed by an individual alleging that a televised debate between the Republican and Democratic nominees for New Hampshire’s First Congressional district seat and, specifically, Congressman Guinta’s appearance in the debate, violated the Act.

Rep. Guinta was invited to and did participate in the televised debate as the nominee of the Republican party in the November 2010 general election. Attached please find the certified election results from the September 14, 2010 New Hampshire Republican primary as published on the website of the New Hampshire Secretary of State’s office, which reflect Rep. Guinta’s victory in the Republican primary. See Exhibit 1, State of New Hampshire Elections Division, State Primary-September 14, 2010 Congressional District No. 1 – Republican primary results.

Also attached are the certified election results from the November 2, 2010 general election reflecting Rep. Guinta’s election to the 1st District congressional seat. See Exhibit #2, New Hampshire General Election November 2, 2010 Congressional District No. 1 results.

The arguments by the complainant with respect to the televised debate are without legal merit.

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Mr. Jeff S. Jordan, Esq.

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The Commission's regulations at 11 C. F. R. §110.13 (a)(2) specifically allow broadcasters and operators of cable television stations to stage, cover and carry candidate debates. The regulations further allow a broadcaster to establish criteria for the selection of candidates to appear in the debate. *See* 11 C.F.R. §110.13(c). There is a well-established line of cases involving the inclusion and exclusion of candidates in candidate debates which render this complaint wholly groundless. Selecting only the nominees of the Republican and Democratic parties for a particular office is permissible under the law. *See Perot v. Federal Election Commission*, 97 F.3d 553 (D.C. Cir. 1996).

Accordingly, there is no reason to believe that Respondent violated the Act and the complaint should be dismissed.

Please contact me at (202) 295-4081 if you have further questions.

Sincerely,

Clea Mitchell, Esq., Counsel
Friends of Frank Guinta
Respondent

Enclosures

cc: The Honorable Frank Guinta
Mr. Louis DeMato, Treasurer
Friends of Frank Guinta

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EXHIBIT 1

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STATE OF NEW HAMPSHIRE
ELECTIONS DIVISION
State Primary - September 14, 2010
CONGRESSIONAL DISTRICT NO. 1 - REPUBLICAN

	17	2	5	25	1	28	5	0
Albany	17	2	5	25	1	28	5	0
Alton	238	12	99	234	6	302	18	11
Auburn	257	16	109	322	2	163	12	8
Barnstead	133	29	29	148	3	161	8	12
Barrington	191	17	38	207	7	282	15	12
Bartlett	83	3	9	166	1	107	5	4
Bedford	1,828	22	206	1,115	6	469	19	11
Belmont	174	12	46	174	4	205	9	9
Brenwood	162	12	53	111	2	164	3	1
Brookfield	34	2	6	36	0	52	3	1
Candia	200	12	70	233	3	194	2	6
Center Harbor	51	2	25	59	1	67	3	2
Chatham	8	1	0	11	1	4	0	1
Chester	170	25	97	197	2	170	12	2
Conway	217	12	25	401	3	178	8	8
Danville	112	23	53	99	1	130	2	5
Deerfield	178	15	59	167	3	215	7	6
Derry	957	28	271	909	14	568	38	26
Dover - Ward 1	45	3	19	58	4	66	4	5
Dover - Ward 2	67	3	16	54	4	74	7	3
Dover - Ward 3	130	8	54	180	4	172	7	7
Dover - Ward 4	86	5	41	114	3	132	5	0
Dover - Ward 5	79	4	21	88	3	120	4	2
Dover - Ward 6	77	6	30	125	2	144	7	3
Durham	152	8	73	133	9	130	3	5
East Kingston	159	17	60	55	3	73	4	1
Eaton	13	2	8	25	0	24	0	1
Effingham	25	4	17	35	1	63	8	7
Epping	157	14	51	163	5	157	8	10
Exeter	342	38	172	376	9	533	25	6

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STATE OF NEW HAMPSHIRE
ELECTIONS DIVISION
State Primary - September 14, 2010

CONGRESSIONAL DISTRICT NO. 1 - REPUBLICAN

City/Town	Number of Registered Voters	Number of Ballots Cast	Number of Ballots Returned	Number of Ballots Spoiled	Number of Ballots Invalid	Number of Ballots Valid	Number of Ballots Cast by Party	Number of Ballots Cast by Party	Number of Ballots Cast by Party	Number of Ballots Cast by Party	Number of Ballots Cast by Party	Number of Ballots Cast by Party
Farmington	104	9	22	115	3	186	15	7	2			
Freedom	60	4	10	91	1	89	7	4	1			
Fremont	163	36	40	173	40	176	13	19	5			
Gilford	232	13	95	441	6	348	18	7	2			
Gilmanton	140	7	36	152	3	144	13	8	3			
Goffstown	730	18	93	757	15	417	19	20	0			
Greenland	85	2	21	136	1	218	2	0	1			
Hale's Location	7	0	2	42	1	10	0	0	0			
Hampstead	334	20	134	350	2	299	15	14	1			
Hampton	354	31	124	434	7	705	13	6	4			
Hampton Falls	119	8	15	82	1	168	1	4	1			
Hart's Location	1	0	0	1	0	2	0	0	0			
Hooksett	451	10	62	740	8	343	21	6	3			
Jackson	24	2	6	63	6	48	3	4	0			
Kensington	82	8	23	49	1	80	6	7	0			
Kingston	215	34	65	134	7	201	16	9	2			
Laconia - Ward 1	66	4	53	158	1	114	3	3	0			
Laconia - Ward 2	45	4	18	97	3	66	8	7	0			
Laconia - Ward 3	51	1	53	113	1	82	5	2	0			
Laconia - Ward 4	66	8	35	103	0	63	6	3	2			
Laconia - Ward 5	30	3	14	82	0	41	5	1	0			
Laconia - Ward 6	77	3	33	142	2	125	8	4	0			
Lee	109	6	42	109	2	109	7	9	1			
Londonderry	1,074	26	176	884	4	504	59	19	5			
Madbury	51	2	27	53	2	55	3	5	0			
Madison	69	4	32	113	4	81	5	3	3			
Manchester - Ward 1	459	11	40	668	1	251	9	7	2			
Manchester - Ward 2	86	3	15	160	1	79	2	2	2			
Manchester - Ward 3	282	7	46	486	0	187	6	9	1			
Manchester - Ward 4	203	9	22	303	2	109	5	2	0			

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STATE OF NEW HAMPSHIRE
 ELECTIONS DIVISION
 State Primary - September 14, 2010
 CONGRESSIONAL DISTRICT NO. 1 - REPUBLICAN

	335	34	65	328	12	267	15	11	3
Raymond									
Rochester - Ward 1	124	3	26	139	5	137	8	6	4
Rochester - Ward 2	93	11	39	159	2	138	7	1	2
Rochester - Ward 3	93	9	19	114	2	111	6	7	2
Rochester - Ward 4	63	4	10	123	1	116	2	5	1
Rochester - Ward 5	85	6	28	124	2	129	4	1	1
Rochester - Ward 6	59	7	11	79	1	91	2	4	0
Rollinsford	58	6	15	63	4	92	2	7	0
Rye	169	11	92	232	2	471	7	10	2
Sandown	2	17	89	152	5	1	9	6	1
Sandwich	56	3	15	79	4	71	4	1	2
Seabrook	118	19	102	176	6	213	17	7	0
Somersworth - Ward 1	25	7	9	50	0	88	1	0	0
Somersworth - Ward 2	22	5	5	29	1	57	2	3	1
Somersworth - Ward 3	32	3	9	33	1	51	2	6	0
Somersworth - Ward 4	44	0	9	24	0	49	4	0	0
Somersworth - Ward 5	19	4	2	22	0	26	3	5	0
South Hampton	25	4	5	21	1	27	0	1	0
Stratford	120	3	30	104	4	177	14	2	1
Stratham	190	10	74	279	2	477	14	15	2
Tamworth	66	4	37	81	1	95	8	6	0
Tuftsboro	157	1	7	115	5	180	22	4	1
Wakefield	141	7	38	186	4	244	17	11	0
Wolfeboro	309	13	76	294	8	419	83	16	2
Totals	1,516	1,158	5,337	22,237	397	19,418	1,051	702	146

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EXHIBIT 2

NEW HAMPSHIRE - GENERAL ELECTION				
November 2, 2010	CONGRESSIONAL DISTRICT NO. 1			
	Frank C. Guinta, r	Carol Shea-Porter, d	Phillip Hodson, #b	Scatter
Albany	128	141	8	2
Alton	1,486	701	85	2
Auburn	1,407	719	86	5
Barnstead	892	593	80	-
Barrington	1,593	1,420	137	6
Barlett	610	612	32	-
Bedford	5,891	2,808	236	8
Belmont	1,196	806	103	4
Brentwood	917	604	62	-
Brookfield	204	142	17	-
Cardis	1,108	561	79	-
Center Harbor	314	186	19	-
Chatham	88	56	3	-
Chester	1,142	525	79	3
Conway	1,476	1,618	101	2
Danville	846	452	54	
Deerfield	1,048	674	81	-
Derry	5,495	3,187	373	-
Dover Ward 1	447	806	44	1
Dover Ward 2	478	834	55	1
Dover Ward 3	1,014	1,032	55	4
Dover Ward 4	774	939	45	-
Dover Ward 5	643	751	38	4
Dover Ward 6	831	805	45	2
Durham	1,089	2,510	94	2
East Kingston	663	323	45	-
Eaton	101	120	-	
Effingham	266	251	27	2
Epping	1,029	879	90	3
Essex	2,542	3,081	166	7
Famington	966	705	64	4
Fredem	379	289	32	2
Fremont	958	456	73	2
Gilford	1,811	1,180	110	3
Gilmanton	873	579	51	4
Goffstown	3,480	2,075	281	6
Greenland	822	735	43	1
Hale's Location	86	22	3	-
Hampstead	2,253	1,029	99	1
Hampton	3,259	2,794	213	4
Hampton Falls	709	312	34	1
Hart's Location	5	11	-	-
Hawkssett	2,817	1,699	165	1
Jackson	238	304	9	1
Kensington	531	376	30	2
Kingston	1,261	747	82	-

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NEW HAMPSHIRE - GENERAL ELECTION				
November 2, 2010	CONGRESSIONAL DISTRICT NO. 1			
	Frank C. Guinta, r	Carol Shea-Porter, D	Philip Hodson, W	Seater
Laconia Ward 1	636	419	32	4
Laconia Ward 2	365	307	30	3
Laconia Ward 3	414	374	32	3
Laconia Ward 4	378	367	1	1
Laconia Ward 5	294	244	27	1
Laconia Ward 6	632	379	30	1
Lee	664	1,027	51	1
Londonderry	5,043	2,925	218	13
Madbury	340	431	23	-
Mattison	470	492	38	1
Manchester Ward 1	1,989	1,902	110	10
Manchester Ward 2	1,513	1,461	98	3
Manchester Ward 3	663	827	68	3
Manchester Ward 4	849	901	84	3
Manchester Ward 5	656	684	63	4
Manchester Ward 6	1,702	1,295	111	8
Manchester Ward 7	1,149	980	88	4
Manchester Ward 8	1,768	1,298	134	6
Manchester Ward 9	1,255	1,084	112	5
Manchester Ward 10	1,298	1,163	107	
Manchester Ward 11	779	647	72	
Manchester Ward 12	1,417	1,055	82	
Meredith	1,532	1,130	97	5
Merrimack	5,552	3,571	344	7
Middleton	305	202	33	3
Milton	757	545	61	1
Moultonborough	1,381	717	60	29
New Castle	329	311	16	2
New Durham	616	370	43	2
New Hampton	492	383	30	-
Newfields	421	347	26	1
Newington	236	170	6	-
Newmarket	1,309	1,663	112	8
Newton	854	473	70	1
North Hampton	1,122	861	59	4
Northwood	848	669	65	4
Nottingham	1,011	764	85	-
Ossipee	812	559	67	1
Plaistow	1,485	677	79	4
Portsmouth Ward 1	381	917	42	1
Portsmouth Ward 2	485	1,338	38	2
Portsmouth Ward 3	352	550	32	-
Portsmouth Ward 4	808	1,136	65	2
Portsmouth Ward 5	602	1,279	32	1
Raymond	1,861	1,034	164	5
Rochester Ward 1	851	742	65	3

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NEW HAMPSHIRE - GENERAL ELECTION				
November 2, 2010	CONGRESSIONAL DISTRICT NO. 1			
	Frank C. Guintz, r	Carol Shea-Porter, D	Phillip Hodson, ^{25b}	Scatter
Rochester Ward 2	812	678	45	2
Rochester Ward 3	820	637	49	1
Rochester Ward 4	674	612	35	4
Rochester Ward 5	761	689	46	4
Rochester Ward 6	555	534	53	-
Rollinsford	483	518	24	3
Rye	1,430	1,231	67	8
Sandown	1,299	563	90	-
Sandwich	347	457	19	5
Seabrook	1,379	807	118	1
Somersworth Ward 1*	380	373	35	1
Somersworth Ward 2	257	313	13	1
Somersworth Ward 3	292	270	23	2
Somersworth Ward 4	282	357	27	-
Somersworth Ward 5	171	230	14	-
South Hampton	189	157	7	1
Strafford	823	737	33	-
Stratham	1,713	1,440	93	2
Tamworth	493	548	57	11
Tuftsboro	744	448	33	1
Wakefield	1,096	571	79	2
Wolfeboro	1,812	1,214	76	-
TOTALS	121,655	95,503	7,966	299

*correction rec'd from city clerk 11/8/10

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